JURISDICTION OVER FOREIGN CORPORATIONS THAT HAVE CEASED TO DO BUSINESS IN THE STATE. — By comity, a corporation, though logically incapable of existing outside of the state which has chartered it, is recognized by the courts of a foreign state in which it does business when it comes to them seeking their aid.[1] When, however, the situation is reversed, when the courts are seeking the corporation, it is somewhat difficult to see how it can be found for the purposes of jurisdiction, unless, by express or implied compliance with legislative enactment, the corporation has submitted itself to the jurisdiction of the court.[2] The decisions, however, are in conflict. The courts of Massachusetts[3] and Connecticut,[4] following a *dictum* in an earlier New York case,[5] have denied their jurisdiction in the absence of express statutory enactment. In England[6] and New Hampshire[7] the opposite rule has been established. It must, to be sure, be noted that neither the English nor the New Hampshire court dispenses entirely with statutory aid in sustaining its jurisdiction. In both cases statutes existed providing for service upon officers and agents of corporations. It might possibly be said that the courts have held only that the statutes applied as well to foreign as to domestic corporations. Whether, however, the rule in these cases is not in substantial conflict with the principle of the others is an inquiry of little moment to-day,[8] in view of the almost universal modern legislation expressly providing for the service of process on foreign corporations as a condition to their doing business in the state.

The same principles, however, are involved in a question which has of late rather frequently arisen under these modern statutes. May a foreign corporation which has done business in the state but has withdrawn, still be amenable to process served upon its agent in the state? It seems clear that the termination of business dealings in the state need not *ipso facto* terminate the statutory agent's authority to receive service. In the absence of express provisions, however, such authority should not easily be implied. The company has submitted to the jurisdiction of the courts in return for the privilege of doing business in the state; when it voluntarily withdraws, the presumption would be that it has withdrawn for all purposes. A common class of statutes, however, provides for the designation of special agents — frequently state officers — other than the officers or business agents of the company, to receive service; and under these statutes some courts have held that jurisdiction over the company remains in respect to all liabilities incurred by the company while in the state.[9] This was the result reached in a recent case decided in the New Jersey court of chancery. *Groel* v. *United Electric Co. of New Jersey*, 60 Atl. Rep. 822. Under substantially identical statutes the decisions are about equally divided. The view of the statute taken by the New Jersey court, however,

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[1] Bank of Augusta *v.* Earle, 13 Pet. (U. S.) 519.

[2] See St. Clair *v.* Cox, 106 U. S. 350; United States *v.* American Bell Telephone Co., 29 Fed. Rep. 17, 34.

[3] Peckham *v.* North Parish, 16 Pick. (Mass.) 274.

[4] Middlebrooks *v.* Springfield Fire Insurance Co., 14 Conn. 301.

[5] McQueen *v.* Middletown Manufacturing Co., 16 Johns. (N. Y.) 5.

[6] Newby *v.* Von Oppen, L. R. 7 Q. B. 293.

[7] Libby *v.* Hodgdon, 9 N. H. 394.

[8] See, however, Barrow S. S. Co. *v.* Kane, 170 U. S. 100 (1898).

[9] Sustaining the jurisdiction, Collier *v.* Mutual Reserve Fund Life Ass., 119 Fed. Rep. 617; Davis *v.* Kansas and Texas Coal Co., 129 Fed. Rep. 149. *Contra*, Swann *v.* Mutual Reserve Fund Life Ass., 100 Fed. Rep. 922; Freedman *v.* Empire Life Insurance Co., 101 Fed. Rep. 535. See also Mutual Reserve Fund Life Ass. *v.* Phelps, 190 U. S. 147.

appears reasonable, since, if jurisdiction were intended to continue only while the company remained in the state, provision for service on any persons other than the regular business agents of the company would scarcely be necessary.

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"POLICE POWER" UNDER THE WILSON ACT OF 1890. — The right of a state to prohibit or regulate in any way the sale of domestic intoxicating liquors has long been undisputed.[1] But these prohibitions and regulations were rendered partially ineffective in 1890 by a decision of the Supreme Court that a state could not interfere with the sale of imported liquors still in their "original packages."[2] As these "original packages" could, under the decisions at that date, be of any size, the liquors were imported in convenient parcels; and, under the protection of the court's decision, were sold with impunity. To remedy this, the Wilson Act of 1890 was passed by Congress, providing that all liquors "transported into any state, or remaining therein, for use, consumption, sale, or storage therein, shall, upon arrival in such state, be subject to the operation and effect of the laws of such state enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such state." In 1891 a prohibition law was pronounced constitutional under the Act,[3] as being enacted in the exercise of the state's police powers. The court based its decision on the ground that the Act gave no new powers to the states, but that it simply removed a restriction on their police powers which the silence of Congress (implying that Congress wished interstate traffic in that commodity to be untrammeled by State laws) had imposed upon them.

If a state has the right to prohibit the sale of liquor entirely, it is but logical that it can allow that business to be carried on subject to such regulations as the public welfare demands. On these grounds, a law of South Carolina which gave the state officials a monopoly of the liquor traffic, was held to be within the Wilson Act.[4] Similarly the courts have upheld city ordinances (enacted under state laws) which exact license fees from all liquor dealers and impose on them other "regulations," even though these ordinances result in large revenues.[5] On the other hand a federal court in 1899 held invalid a licensing ordinance, in which no provision was made for regulation or inspection in the interests of the public welfare. Such an ordinance, the Court said, was not a police measure and so not within the Wilson Act.[6] The reasoning of this case seems somewhat arbitrary in implying that a licensing act without "regulation" may not of itself be a police measure, since it may be a means of restricting or even prohibiting the sale of liquors. A broader view of the question has recently been taken by the United States Supreme Court. *Pabst Brewing Co.* v. *Crenshaw*, 25 Sup. Ct. Rep. 552. In this case, a Missouri "inspection law" providing for an examination as to the purity of all beer held for sale in the state was declared constitutional under the Wilson Act, although the fee exacted was

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[1] Mugler *v.* Kansas, 123 U. S. 623.
[2] Leisy *v.* Hardin, 135 U. S. 100.
[3] *In re* Rahrer, 140 U. S. 545.
[4] Vance *v.* Vandercook, 170 U. S. 438 (1897).
[5] Duluth Brewing and Malting Co. *v.* City of Superior, 123 Fed. Rep. 353 (1903).
[6] Pabst Brewing Co. *v.* City of Terre Haute, 98 Fed. Rep. 330.